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D I C T A

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VOLUME 24

1947

∫

**The Denver Bar Association
The Colorado Bar Association**

1947

FOREWORD

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DICTA

(Denver Bar Association)

Volume 24

1947

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DICTA

Vol. XXIV

JULY, 1947

No. 7

Calendar

- Sept. 22-26—American Bar Association annual meeting, Cleveland, Ohio.
Oct. 6—Denver Bar Association, regular monthly meeting, 12:15 P. M., Chamber of Commerce dining room.
Oct. 16—District Judges' Association annual meeting, County Judges' Association meeting, District Attorneys' Association meeting, Board of Governors meeting, Broadmoor Hotel, Colorado Springs.
Oct. 17-18—Colorado Bar Association annual meeting, Broadmoor Hotel, Colorado Springs.

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The Thirty-sixth General Assembly

BY HUBERT D. HENRY*

The Thirty-sixth General Assembly, which adjourned on April 18, enacted 341 laws. In addition to these, the governor vetoed six bills. The legislature referred the horse racing bill, H. B. 439, to a vote of the people at the next general election. It ratified the amendment to the U. S. Constitution limiting the terms of office of president (H. C. R. 15). It renamed "Squirrel Gulch" in Clear Creek County "Steve Canyon", in honor of a newspaper picture strip character of the same name (S. C. R. 13). It submitted to the people a constitutional amendment eliminating the elective office of State Superintendent of Public Instruction and providing for an elective board of education (S. C. R. 6). Of the 341 new laws, 49 were deficiency appropriations and 68 were straight appropriations, leaving 224 new laws for the future perusal of the bar. However, thirty of these 224 laws were of extremely limited application and effect. On the basis of preliminary study, it would appear that the 1947 session laws will be the largest volume of session laws of the state yet printed.

Many new laws urged by the bar associations and by lawyers individually, as improvements in our procedural statutes, are the result of the efforts of our lawyer members of the legislature, who were: William Albion Carlson, speaker of the House, Representatives Lyman P. Weld, V. H. Johnson, Milton J. Blake, Otis J. Gibson, George G. Priest, Clifford J. Gobble, Robert S. Gast, Jr., Clem Crowley, Lawrence M. Henry, James B. Radetsky and Charles C. Town-

*Of the Denver Bar.

send, and Senators Claude W. Blake, Arthur H. Laws, Averill C. Johnson, Charles E. Blaine, Harold Ward Gardner, Wayne N. Aspinall, Sam T. Taylor, Robert A. Theobald and Arthur A. Brooks, Jr.

Because of the defective manner in which several of the bills were passed, which in some cases consisted of the failure to include in the enrolled bill which was signed by the governor amendments made in one or the other house, there may be some question as to the validity or real content of some of these laws.

Probate

- H. B. 556. Drafted by Legislation Committee of Probate and Trust Law Section of Colorado Bar Association pursuant to suggestions made at last annual meeting. A will executed in contemplation of marriage is no longer revoked by the marriage. Deposition of witness to will may be taken if witness is not present in county, and may be taken without notice in absence of contest. Foreign will statute revised. Applies only to non-residents. Will of non-resident probated in another jurisdiction may be admitted in Colorado even if not executed according to Colorado law. In sale or mortgage of real estate by conservator, notice must be given to ward's apparent heirs. Debts under \$25 may be paid without claim. Subsection c of section 253 clarified. Determination of heirship proceeding in sections 18 to 26 eliminated by repeal of those sections. Effective date August 14.
- H. B. 674. Person 18 years of age may make will of personal or real property.
- S. B. 386. Leasing of hotel property by estate.
- H. B. 690. Determination of interests outside of probate proceeding. Now no date set for hearing, but default judgment taken after time for answering petition has expired. Effective date June 25.
- H. B. 239. Fee of appraisers increased. No notice to creditors necessary if estate not opened until after one year after death.
- H. B. 157. Testimony of witnesses to will.
- S. B. 226. Executor named in will to be appointed special administrator.
- H. B. 308. Common Trust Fund Act.
- H. B. 309. Exempts common trust funds from income tax.

Courts

- H. B. 241. Uniform docket fees in civil actions. \$10 for plaintiff; \$10 for cross or counter claimant; \$5 for defendant; etc.
- H. B. 235. Probation officers in counties under 100,000 population.

- H. B. 846. Permits change of venue from juvenile court to another court of record in same county.
- H. B. 469. Changes Cheyenne County from Fourth to Fifteenth Judicial District. Effective date July 25.
- S. B. 23. New terms of court of Fifteenth Judicial District Court. (This act is apparently superceded by H. B. 469).
- S. B. 461. New terms of court for Eighth Judicial District Court.
- S. B. 285. Judgments, orders and decrees of foreign courts in matters of divorce, separate maintenance, annulment, support, recognized by courts of this state.

Inheritance and Gift Tax

- H. B. 255. Jointly owned bank accounts and government bonds now taxed on basis of contribution by decedent. Inheritance tax remains a lein for 15 years (this provision becomes effective April 14, 1948).
- S. B. 232. Reciprocal gift tax act.
- H. B. 254. Assessment of gift tax.

Income Tax

- H. B. 112. Income tax.
 1. *Effective Period.*—May 1, 1947 to December 31, 1948, inclusive.
 2. *Rates.*—On individuals, trusts and estates increased rates start at 1% on the first \$1000 and progress to 10% on all income over \$11,000.00. The surtax and surtax rate remains unchanged.
 3. *Tax on corporations.*—Tax on banks is unchanged. On other corporations, the rate is raised from 4% to 5% and the tax is based on income from all sources in Colorado including interstate activities. This change adopts the wording of the California statute recently upheld by the U. S. Supreme Court, and will have the effect of taxing some foreign corporations which were previously exempt.
 4. *Exemptions.*—A flat \$750 exemption is allowed for every individual, estate or trust and an additional \$750.00 exemption for the spouse of a married taxpayer and for each dependent. The definition of dependent follows the federal act.
 5. *Partnerships.*—Gains and losses and charitable contributions of a partnership are not considered in determining partnership income, but are reported by each partner individually on a pro rata basis.

6. *Returns*.—Every individual estate or trust with \$200 of surtax income or \$750 of ordinary net income or \$5,000 of gross income must file a return. Information returns must be filed of all payments of interest or dividends of \$50.00 or more and of all other payments of \$750.00 or more.

7. *Taxable years*.—Each taxpayer reports on the same taxable year but applies the old rates and exemptions to income realized prior to May 1, 1947 and the new rates and exemptions to income before and after May 1, 1947, or may report income for the entire taxable year and prorate it to the two periods.

8. *Optional short forms*.—Resident calendar-year taxpayers with income up to \$5,000.00 may use a short form table similar to the federal optional table. Such taxpayers report adjusted gross income (gross income less business deductions) and the table automatically gives the taxpayer the proper number of exemptions, a deduction of the federal income tax payable, and an additional 10% deduction to cover all other deductions allowed by law. Resident individuals with \$5,000 or more adjusted gross income may take a standard deduction of \$500.00 in lieu of reporting actual non-business deductions.

Conveyances

- H. B. 807. Acknowledgments of persons in military service.
- H. B. 847. Notaries public may take acknowledgments in any county.
- H. B. 750. Continues wartime powers of attorney act for persons in military service.
- H. B. 318. Advertising fees for tax sales.
- S. B. 250. Redemption of real property by persons under disability.
- S. B. 25. Limitation of time for issuing tax deed for certificate of purchase, and limitation of time of lien of tax sale certificate.
- H. B. 319. Increases fee for certificate of taxes due from \$1.00 to \$2.00.
- H. B. 285. Conveyance or encumbrance of homestead where claimant is under mental disability.
- S. B. 87. Conveyance of real property by a county or municipality.
- H. B. 772. Granting of easements by State Board of Land Commissioners.
- H. B. 325. U. S. Government must give notice of intention to acquire land to board of county commissioners.

Crimes

- S. B. 483. Desertion by shepherd.
- S. B. 227. Bribery of athletes.

Insurance

- S. B. 148. Extensive revision of group life insurance law.
- S. B. 68. Regulation of rates for fire, marine and inland marine insurance.
- S. B. 70. Regulation of sickness and accident insurance.
- S. B. 67. Regulation of rates for certain casualty insurance, including fidelity, surety and guaranty bonds and all other forms of motor vehicle insurance.
- S. B. 347. Examination of insurance companies.
- S. B. 345. Investments of domestic insurance companies.
- S. B. 517. Insurance brokers.
- S. B. 100. Powers of insurance companies.
- S. B. 147. Reciprocal or inter-insurance contracts.
- S. B. 125. Governing of mutual benefit associations.

Workmen's and Unemployment Compensation

- H. B. 586. Increases payments under workmen's compensation.
- S. B. 135. Coverage of volunteer firemen under workmen's compensation.
- H. B. 805. Increases payments under unemployment compensation.
- H. B. 916. Amends definition of persons covered by unemployment compensation.

Welfare

- S. B. 90. Increases monthly payments under old age pension.
- H. B. 214. Amends S. B. 90 relating to amount of deduction from old age pension for rent of house owned by pensioner.
- S. B. 165. Board of Standards of Child Care.
- H. B. 451. Sets up merit system for county welfare employees.
- H. B. 1031. Appointment of State Board of Public Welfare.
- S. B. 81. Alters amount of assistance to blind persons.
- S. B. 8. Increases daily assistance in indigent tuberculosis cases.

Elections

- H. B. 248. Amendments to election laws to make them conform to secret ballot amendment voted in 1946 election.
- S. B. 467. Amendments to election laws.
- S. B. 464. Amendments to election laws.
- H. B. 878. Voting machines at elections.
- H. B. 230. Amendments to absentee voting law.

Motor Vehicles and Roads

- H. B. 838. Renewal of operator's and chauffeurs' licenses.
- H. B. 526. Establishing the Colorado Highway Safety Council.
- S. B. 150. Safety glass required in motor vehicles.
- S. B. 411. Weight of vehicles using highways.
- H. B. 350. Revision of Colorado State Patrol Act.
- H. B. 296. Establishment of state radio and teletype system.
- H. B. 532. Use of white canes by blind persons.
- H. B. 353. Definition of trailers and trailer coaches, license fees thereof, and motor numbers of vehicles.
- H. B. 332. Specific ownership tax.
- H. B. 331. Revision of motor vehicle dealers law.
- H. B. 351. Lights and reflectors for vehicles.
- S. B. 76. Requiring the showing of financial responsibility by persons involved in accidents.
- H. B. 645. Imposes an additional gas tax of 2c a gallon.
- H. B. 447. Use of cities' share of gas tax revenues.
- S. B. 325. Definition of distributor in collection of gas tax.
- H. B. 218. Provides for funds for highway emergencies.
- H. B. 725. Taking of property for state highway purposes.
- H. B. 726. Designation of freeways in cities and payment for rights of way in cities.
- S. B. 56. Authorizes the state highway department to construct and finance toll roads.
- S. B. 218. Construction of culverts across highways.

Regulatory Acts

- H. B. 187. Sale of poultry.
- S. B. 168. Creates new State Athletic Commission and prescribes its powers and duties.
- H. B. 362. Operations of cold storage and locker plants.
- H.B.1016. Investment by banks of savings deposits.
- H.B.1017. Investment by banks of demand deposits.
- H.B.1025. Investment of bank reserves.
- H.B.1027. Limitation on bank loans.
- H.B.1015. Bank loans on real estate.
- H. B. 839. Building and loan association.
- S. B. 282. Sale and distribution of insecticides.
- S. B. 453. Practice of chiropody.
- S. B. 503. Cleaning and dyeing industry.
- S. B. 69. Bees and beekeeping.

- H. B. 549. Hours of labor for females.
- H. B. 919. Sale of cigarettes.

Veterans

- H. B. 400. Establishes new Colorado Department of Veterans Affairs.
- H. B. 788. Removal of disability of minor veteran and spouse for purposes of Servicemen's Readjustment Act.
- S. B. 327. Rights of veterans as to housing projects.
- S. B. 325. Reemployment rights of veterans.
- H. B. 82. Establishes Governor's Advisory Committee on Veterans' Education and Training.

Corporations

- S. B. 249. Shareholder's right to vote.
- S. B. 523. Contributions by corporations.

State Government

- H. B. 131. Creates Committee on reorganization of the state government.
- H. B. 589. Vocational education and training.
- S. B. 104. Pensioning of state employees.
- H. B. 326. Establishes new Division of Accounts and Control.
- H. B. 370. Authorizes refund of money illegally collected by state.
- H. B. 287. Soldiers' and Sailors' Home.
- H. B. 320. Persons eligible for Soldiers' and Sailor's Home.
- H. B. 840. Authorizes oil and gas development of state school lands.

Local Government

- H. B. 414. Tax sales for local improvement taxes.
- S. B. 40. Annexation of one town to another.
- H. B. 479. Annexation of unincorporated territory.
- S. B. 322. Recall of municipal officers.
- S. B. 86. Establishment of airports by towns and cities.
- S. B. 105. Establishment of public libraries.
- H. B. 228. Authorizing cities, towns, counties and school districts to operate systems of public recreation and playgrounds.
- H. B. 146. Increasing authorized mill levy for public cemeteries.
- H. B. 707. Dissolution of water, sanitation and fire protection districts.
- H. B. 510. Creation of recreation districts in unincorporated areas.
- H. B. 600. Issuance of bonds for fire protection districts.
- H. B. 714. Death benefits for firemen.

- S. B. 114. Firemen's Pensions.
- H. B. 295. Firemen's pension fund.
- H. B. 709. Organization of fire protection, police and metropolitan districts.
- H. B. 727. Water and sanitation districts.
- S. B. 217. Area building codes.
- S. B. 83. Authorizing establishment of county and district health departments.
- S. B. 107. Public hospitals in counties.
- S. B. 444. County hospitals.
- H. B. 641. Investment of school district retirement funds.
- S. B. 518. Powers of school boards.
- H. B. 176. Junior college districts.
- H. B. 342. Pensions for school employees.
- S. B. 96. Pensions for retired school teachers.
- H. B. 531. Dissolution of union high school districts.
- H. B. 391. Financing of public schools.
- H. B. 569. Creation of special fund for reorganization of school districts.
- H. B. 44. School lunch program.
- H. B. 340. Increasing levy for Public School Teachers' Retirement Fund.
- S. B. 338. Bonds of junior college districts.
- H. B. 559. Funds for consolidated school districts.

Public Health

- H. B. 895. Hospital construction act.
- S. B. 524. Venereal diseases and the sale of prophylactics.
- S. B. 82. State Health Department Reorganization Act.

Livestock

- S. B. 164. Branding of livestock.
- H. B. 377. Inspection of livestock.
- H. B. 640. Control of wandering and abandoned livestock.

Game and Fish

- H. B. 661. Requires commission to publish rules, regulations and orders.
- H. B. 975. Increases fees for hunting and fishing licenses.
- H. B. 974. Closed seasons.
- S. B. 62. Training of hunting dogs.
- H. B. 665. Regulation by commission of importation or exportation of game and fish.

Liquor and Narcotics

- H. B. 516. Uniform closing hours for sale of liquor.
- S. B. 463. Notice of issuance of liquor license.
- S. B. 181. Narcotic drugs.

Ten Year Building Program

- 23 bills making annual mill levies for the ten year building program of the state institutions.

Miscellaneous

- H. B. 557. Aviation and airports.
- S. B. 476. Establishing a Children's Code Commission to prepare a children's code for consideration by the next general assembly.
- H. B. 74. Exempting radio stations from defamation penalties by reason of activities of speakers over radio.
- S. B. 303. Bureau of Mines.
- H. B. 376. Damages to warehoused goods.
- H. B. 868. Lien for personal property left at service and storage establishments.
- H. B. 950. Levying a state tax of two mills for state purposes.
- H. B. 1021. Assignments of and liens upon accounts receivable.
- H. B. 164. Payment of expenses of persons hospitalized in the State Home and Training School for Mental Defectives.
- S. B. 225. Issuance or guarantee of securities by gas and electric companies.
- S. B. 166. Permitting cities to claim refunds due to public utility customers when customers cannot be located.
- S. B. 391. Investment of State Compensation Insurance Fund.
- H. B. 955. Board of directors of credit unions.
- S. B. 5. Discharge of prisoners from state penitentiary.
- H. B. 885. Control and eradication of predatory animals.
- S. B. 499. Filing of label or trade mark.

Special Appropriations

- H. B. 65. Appropriating \$25,000 to purchase a building on West Sixth Ave., Denver, for the Operators' and Chauffeurs' License Division of the Motor Vehicle Dept.
- H. B. 100. Appropriating \$31,000 to purchase five lots adjoining lots now owned by the state on the northwest corner of Colfax and Sherman, Denver, upon which a new state building will eventually be built.

- H. B. 343. Appropriating \$100,000 to the Colorado Tax Commission to make a reappraisal of all taxable property in the state.

Vetoed

- H. B. 304. Refund of motor fuel tax on uncollected accounts.
 H. B. 311. Increasing limit for grand larceny.
 H. B. 642. Transfer of land by State Board of Land Commissioners.
 H. B. 733. Third degree.
 B. B. 854. Use of armories of the national guard.
 S. B. 26. Compensation of members of the general assembly.

What the Legislature Did Not Do

Submit a call for a constitutional convention, or several other important constitutional amendments.

Pass a community property law.

Increase the salaries of district and county judges, or provide a retirement program for them.

Provide a more adequate system of probation and parole.

Provide for a substantial consolidation of school districts.

Levy a service tax or severance tax.

Provide for a judicial council.

Provide a more adequate legislative staff.

Provide for the revision and codification of the school laws.

Change the mechanics' lien law.

Except for the Game and Fish Commission and State Department of Public Health, require administrative agencies to publish rules and regulations, make rules and regulations available to the public, give notice of rule making, or provide a uniform method of making rules and uniform procedure for appealing from decisions of administrative agencies.

Corrected Notice of Supreme Court Amendment

The Colorado Supreme Court, on recommendation of the Committee on Rules, has adopted the following amendment to its rules as of May 22, 1947:

"that Rule 79C (b) be amended to read as follows:

79C (b) CIVIL ORDER BOOK. The Clerk shall keep a book for civil actions entitled "civil order book" in which shall be kept in the sequence of their making exact copies of all judgments and orders; provided, however, that two such books may be kept concurrently, one for divorce cases, the other for all other civil cases. Photographic copies may be used if deemed advisable."

Are We Protecting Our Judges Financially?

BY STANLEY H. JOHNSON*

At the 1947 session of our legislature, salary increases and retirement pensions for the judges of all of our courts of record were either discussed or voted upon, but none of them were enacted into law. There were many serious financial problems before this legislature, including the apparent necessity of increasing the salaries of teachers in the public schools. As the result of considerable publicity and pressure, increased pay and retirement provisions for teachers were passed. Some members of the bar put in a great deal of time and effort to procure passage of the district judges salary and retirement bills, but the total amount of lobbying was not strong. For this and other reasons, the bills failed.

As a result, according to the Denver Post, senior high school principals in Denver will receive a maximum salary of \$6,800.00, administrative officers considerably more. Our Supreme Court justices are paid \$6,500.00 a year and at the age of 65, and after ten years service, are given a lifetime pension of \$3,000.00 a year. Teachers perform a most important function, but not sufficiently grave to require their selection at the polls by the public. Probably any citizen would say that the position of a supreme court justice was of greater dignity, honor, and import to the public than that of a high school principal. These judges are elected by the voters of the state as a whole. But the public, or at least the representatives of the public, do not feel it necessary to acknowledge the value of their services to the state in a tangible way.

In some respects the work of the district court judges may be said to be of graver weight to more individuals than the decisions of the Supreme Court. They have general jurisdiction over the lives, liberty, and property of our citizens, and most of their findings are not appealed. Yet the district judges are paid only \$5,000.00 a year for a six year term, and have no retirement protection.

The county court judges have general jurisdiction over issues involving not exceeding \$2,000.00, but unlimited jurisdiction over estates of decedents, minors, and incompetents, as well as of misdemeanors. Full details of their classification and salaries under the 1945 act appeared in DICTA for May 1947, and in an article by Judge Mason in the April 1947 DICTA at page 81. The Denver county judge receives \$7,000.00, those in three other counties \$5,000.00, in six counties \$3,600.00, in five \$3,000.00, in eleven \$2,400.00, in ten \$2,100.00, in eight \$1,900.00, in eleven \$1,800.00, in six \$1,500.00, in one \$600.00, and in one \$400.00. Some of these judges, because of the scanty populations they serve, are unable to earn more, but all of them must be avail-

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able for duty the year round. They serve a four year term and have no retirement benefits.

It must be regarded as a truism that any plan submitted by the Judiciary Committee of the Colorado Bar Association to the bar for the improvement of the judicial system must include adequate salaries and retirement pensions for judges. If the Missouri plan for selection of judges should be adopted, this in itself will tend to extend the tenure of office of those judges worthy of it, and get rid of the present weakness in connection with partisan election, namely: that a capable lawyer running for judicial office must accept the risk, if elected, of failing of re-election at the end of his first term. This fact, together with the unpleasant features of political campaigns, so obviously inconsistent with a judge's character or duties, and of heavy financial contributions to party expenses, will always be a serious detriment to obtaining the best candidates. But the further factors are even greater obstacles. All of the Supreme Court justices and seven district judges must reside in Denver. On the basis of present costs it is impossible on their present salaries, for any of them without independent means to live, or maintain and educate their families, in a manner consistent with their position in society. The same is undoubtedly true of the condition of many of the judges of other judicial districts and of many county judges.

There seems to be an attitude upon the part of the public, more prevalent perhaps in the western states than elsewhere, that the mere fact of holding office is sufficient honor to compensate for the lack of material benefits. Evan Haynes, in his book on *Selection and Tenure of Judges*, published in 1944, has this to say about adequate salaries and retirement pensions for judges:

"In the first place the state, in its effort to get the best judges it can, must compete with the practice of law; and the better the man in any particular instance the keener the competition offered by private practice. Nowhere are judicial salaries even approximately equal to the incomes of the best lawyers; and apparently it is not necessary that they should be in order to attract at least a few men of the highest talents to the bench: the question of relative income is not the only factor entering into the choice; and I suppose it is safe to say that some of the non-financial considerations have unusual weight with the type of men who make excellent judges; men, that is, who have a scholarly as well as a practical interest in the law; men whose ethical instincts are unusually active; who are less interested than most able men in getting wealth and power, . . . Even with men like these, however, it is unquestionably a fact that the other attractions of the judicial career will often be insufficient to outweigh great differences in income. It is clear that more men of ability and character will be inclined toward the bench, even though

it does not offer economic attractions, if it does offer some substantial degree of economic security.

"And with respect to the men actually on the bench there is a tendency . . . for the ablest of them to leave the bench while still young enough to re-enter practice . . . When this occurs, the loss to the state is great, both because of the quality of the judge involved, and because, even though a man of equal ability is found to take his place, the invaluable experience of the retiring judge is lost.

"Another factor is this. When because of sickness or advanced age a judge's powers begin to fail, considerations of common decency discourage any action looking to his removal . . . When this happens, not only is the judge in effect retired on the bench at full pay, but his place cannot be filled; and the burden of his work is thrown upon the shoulders of his . . . brethren . . . I have not mentioned the increment to the honor and dignity of the judicial career which accompanies a proper provision for retirement."

In Colorado, under present economic conditions, with the possible exception of the present pension for Supreme Court justices, it can hardly be honestly said that there is any economic attraction to any of the judicial positions at all, unless in the few instances of district judges in sparsely settled districts where judicial work occupies only a fraction of their time, and they may engage in farming or the like. This latter factor seems to have been a persistent form of argument in the debates on salary bills for judges in the finance committees of the assembly. It is so obviously unsound and unfair to the majority of judges that one wonders why intelligent men would advance it. Yet this argument defeated the attempt in 1937 to provide a decent salary for district judges, and among others caused the defeat of the district and county judges salary and retirement bills in the 1947 legislature.

The chief justice and associate judges of the territory of Colorado, who also served as district judges, by act of Congress, were allowed \$1,800.00 a year. The territorial assembly increased this amount and provided for district judges to serve at a salary of \$2,000.00. Article V, Sec. 30 of the Colorado Constitution, adopted in 1876, left the matter to the assembly, but in 1881 this section was amended, fixing the salaries of Supreme Court justices at \$5,000.00, and of district judges at \$4,000.00. In 1929 Sec. 30 was again amended, leaving the matter of compensation to the legislature. Not until 1937 did the assembly see fit to increase the salaries of judges. At the time, although efforts were made to obtain higher salaries, they were established by enactment at their present rate: \$6,500.00 for Supreme Court justices, \$5,000.00 for district court judges.

At the time the lower rate was established, that is, in 1881, \$5,000.00 and \$4,000.00 enabled a man to live in some respectability. It has been said that Henry Ford at that time was supporting himself and his wife reasonably

well on \$40.00 a month. But the higher rate of 1937 did the judges little good, since the following year the United States Supreme Court ruled that the salaries of state judges were subject to the federal income tax. The tax on a salary of \$5,000.00 for the taxpayer and one dependent is close to \$700.00. Taking state and other taxes into consideration, therefore, the judges are receiving in buying power about half what they were receiving during the earlier part of this century and working much harder. Considered in this way, their compensation is pretty shabby.

It is worth while considering what is being paid to judges in other states of comparable size or wealth. The following table gives some comparison. In the case of those states marked with an asterisk, the figures are for 1947; for the others as of 1944 or earlier, no current figures being available:

State	Supreme Court	District Court	County Court
Arizona	\$ 8,500	\$ 5,500-\$4,000	None
Connecticut	12,000	12,000	Fees
Delaware	10,000	10,000	None
*Idaho	6,000	5,000	\$3,000-\$ 800
*Kansas	8,000	5,000	4,650- 1,500
Maine	8,000	7,500	4,000- 600
*Montana	7,500	6,000	None
*Nebraska	8,500	6,800	6,000- 900
Nevada	7,500	7,200- 6,000	None
*New Mexico	8,000	6,000	Unknown
Oregon	7,500	6,000- 5,000	3,000- 500
South Carolina	8,750	8,750	Unknown
*Utah	Unknown	5,500	5,000
Washington	7,000	6,000- 4,500	None

In the fall of 1946, just after the Judiciary Committee was organized, a committee of the Colorado Bar Association and a committee on behalf of the Colorado judges, led by Benjamin E. Sweet, began an effort to increase the salaries of district judges to \$6,000.00 and to provide for retirement benefits for them upon a graduated scale based upon years of service and age, up to a maximum of \$2,500.00. Judges J. Arthur Phelps of Pueblo, Harold H. Davies of Englewood, and Claude C. Coffin of Fort Collins, were active on behalf of the judges in obtaining information and in drafting proposed bills.

The Judiciary Committee was requested to assist in this movement, but owing to the fact that it was then but recently organized and had committed itself to a prolonged factual study before taking any views, it felt it should not sponsor the bills officially. Shortly thereafter the county judges association met and discussed salaries and as a result decided to request a twenty per cent increase over the salaries allowed in the 1945 statute. It must be borne in mind that the county judges who were in office when the 1945 salary act was

passed are not entitled to receive the salary provided therein, since no judge's salary can be increased during his term of office.

Meetings of the committee for the district judges bill were held in Denver and after the legislature assembled, Ben Sweet and Judge Phelps and others including Arthur H. Laws and Claude W. Blake, attorneys in the Senate, attempted in every way to put the bills through both houses. It was unfortunate that the judges with the help of the bar had not organized as a group with a bill covering salaries of all of the judges and also their retirement pension. The Supreme Court justices did not cause a bill to be drafted themselves but, according to what information has been received, requested Representative Ben F. Englander to draft a bill and a title was presented, but owing to his death received inadequate support. A pension bill for the purpose of providing retirement benefits for one judge no longer on the bench was submitted in connection with the Supreme Court.

The result of this piece mill presentation was most unfortunate.

Following is a history of the various bills for judges salaries and retirement pension: HB 347, the bill to increase compensation of district judges to \$6,000.00 a year passed the house on third reading with what amounted to a unanimous vote, 58 "ayes", no "nays", four excused and not voting.

HB 345 to pension district judges passed the House with 36 "ayes", 20 "nays", and six absent. There were also three members deceased at this time. Both of these bills reached the Senate Finance Committee consisting of one less than one-half of the members of the Senate. The chairman was Theodore G. Lashley of Longmont. In spite of everything that could be done by Ben Sweet and Arthur Laws, sponsors of the bill, the bills were never allowed out of this committee and finally died there.

HB 184, the bill to reduce the service period on the Supreme Court for purposes of obtaining a pension for a proportionate part of the ten year term died in the House committee on State Affairs and Reapportionment. It had passed the House on second reading and had been referred to this committee.

HB 328 to increase the salaries of Supreme Court justices from \$6,500.00 to \$8,000.00 a year died in the Rules Committee of the House.

HB 240 increasing county judges salaries and county clerks salaries approximately a flat 20 per cent died in the Rules Committee of the House. Strangely enough HB 243 providing a retirement pension for county judges passed the House but was killed in the County Affairs Committee of the Senate. The county judges salary bill on second reading before the House had been referred to the Judiciary Committee which passed it on to the Committee of the Whole with a favorable recommendation. This was as far as the bill got. There were also HB 850 to increase the salary of the juvenile court judge in Denver from \$5,000.00 to \$6,000.00 a year which was killed in the Senate Finance Committee and HB 634 to increase the salary of justices of the peace in certain counties which died in the Rules Committee of the House.

There was considerable indignation on the part of members of the bar who had given their time in support of the district judges salary and retirement bills at the fact that, although these bills had passed the House unanimously or with a substantial majority, they should be killed in the Senate Finance Committee without giving the Senate an opportunity to vote upon them as a whole. Regardless of the merits of the bills, the criticism was made that this was undemocratic and arbitrary. It was stated to the writer that Senator Lashley, the chairman, was personally hostile to any increase for salaries for judges. He stated nobody was sponsoring the bill or really seemed to care about it and that district judges could save money on \$3,000.00 a year. It must be borne in mind however that the assembly was faced with considerable financial problems and a great many bills required more attention than in the average session. The old feeling that many of the district judges did not earn their present pay cropped up again. If this attitude is continually going to prevent reasonable salaries for the judges who are undoubtedly earning more than they now receive, something should be done to graduate the salaries in accordance with the amount of time spent by the judges.

The secretary of the Judiciary Committee wrote letters to the chairmen of the Finance Committees of both houses, including Senator Lashley, asking to receive their views and the reason why the bills were killed but no reply has ever been received. The matter of salary and retirement bills for judges is so important to the welfare of the judiciary of this state that before the next session a concerted effort should be made by the bar to enlist public support to see that our judges are properly paid for what they do and are given security to protect them for the sacrifices they have made in relinquishing their practice in order to carry on public work. We cannot expect intelligent, able, and honest men to accept positions of this kind if the public itself does not respect those positions and the work done by the incumbents sufficiently to reimburse them adequately for their work.

Amendments To The Colorado Rules of Civil Procedure

BY PHILIP S. VAN CISE*

The persons mentioned herein are the lawyers' Rules Committee of the Supreme Court of Colorado. From time to time we have had communications from different lawyers about suggestions as to amendments of the present rules but the members of the committee have been so busy individually that they have not had time to properly study them. However on September 1, 1947, amendments to 33 of the present federal rules will go into effect. Some of these are only a few words; some of them are quite lengthy. In order properly to study them and determine whether or not recommendations should be

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made to the Supreme Court of Colorado to adopt any or all of these amendments, it has been necessary to enlarge the committee.

As the chairman of the Rules Committee is also chairman of the Judiciary Committee, he has no time personally to study the rules. Joe Hodges is chairman of the District Court Committee of the Judiciary Committee and is likewise devoting a lot of his time to the Judiciary Committee work. However for the purpose of study and reception of suggestions and ideas from the bar, we have divided the work into four committees, each of the other members of the committee taking a separate group of the rules and for his work will appoint a special sub-committee.

We suggest every interested lawyer in Colorado get a copy of the new federal rules of civil procedure, the 1947 revised edition, from West Publishing Company so he will know what the federal amendments are; that you then write us your suggestions as to whether or not we should adopt any or all of these changes or make any other revision in the rules.

The names and addresses of the other members of the committee and the sections of the rules to be studied by them and to whom your suggestions should be sent are:

Thomas Keely, International Trust Bldg., Denver—Rules 1 to 25 inclusive; amended forms number 17, 20, and 22.

Joseph G. Hodges, 947 Equitable Bldg., Denver—Rules 26 to 50, inclusive; amended form number 25.

Percy S. Morris, Security Life Bldg., Denver—Rules 51 to 68, inclusive.

Jean H. Breitenstein, 718 Symes Bldg., Denver—Rules 69 to 86, inclusive.

These sub-committees will make their report about the end of July, therefore all suggestions from the bar should reach them not later than July 28 so ample time will be given to the study of such suggestions.

New Supreme Court Rule

The Colorado Supreme Court, on June 9, 1947, adopted the following rule:

When in the judgment of a majority of the members of the court the expedition of the business pending before it demands any district judge of the state and any former judge of this court, covered by Sec. 33, chap. 46, C.S.A. '35, as amended, able and willing to undertake the task, may be assigned as a referee to examine and report a suggested opinion in any case at issue.

At the time of adopting the rule, Chief Justice Haslett P. Burke issued the following statement: "This court has been making a strenuous effort since the beginning of the year to get up with the work and with some success. The present situation is that criminal cases, Industrial Commission cases and supersedeas applications are up. July 1 will see all cases at issue in 1945

disposed of or assigned for opinion and one-third of those at issue in 1946 cleaned up. However, this leaves us still with some 120 cases at issue. We hope by use of this rule to clean up that backlog and that the district judges will be able and glad to render assistance. It is not our intention to unnecessarily burden them. Cases in which they render this service will be put down by per curiam opinions of the court and due credit given the referee. The plan is not novel. It was employed in Oklahoma several years ago with almost universal approval by bench and bar. Although the district judges have just been notified of the adoption of the rule I have received favorable responses and offers of cooperation from a number of them."

Supreme Court Terminates War Service Rule

On June 19, 1947 the Colorado Supreme Court rescinded effective thirty days before the first day of the bar examinations next following those given in June, 1947, the following rule adopted February 13, 1942, to-wit:

During the present war emergency and until further order of the Court, every applicant for admission to the bar who is a bona fide citizen of Colorado on this date and who may present a degree from an approved law school and whose application is favorably reported on by the bar committee of this Court, shall receive a certificate of admission, without examination, on showing that he has served one year or more in the armed forces of the United States and has received an honorable discharge therefrom or has been prevented from completing such term of service because of disability therein incurred or by retirement to reserve forces by governmental authority.

And the amendment to the rule of September 13, 1945, to-wit:

Provided, however, that any application for admission under this rule shall be filed within one year from the date of termination of applicant's military service.

Pueblo County Bar Association Studies Charter Convention

J. Gordon Bartley, president of the Pueblo County Bar association, has appointed a special committee to confer with other groups on proposed changes in the Pueblo city charter. The committee consists of S. S. Packard, William L. Lloyd, Thomas Phelps, Harry S. Petersen, Warren W. Lattimer, Vincent Christiano and A. T. Stewart.

Denver To Have A New City Code

Redeeming a campaign promise of great interest to lawyers, Mayor Quigg Newton has taken first steps towards revising and codifying Denver's municipal ordinances. The city council has appropriated \$7,350.00 towards the expense. Denver ordinances have not been codified since 1927, and the

3,000 ordinances enacted since that date are difficult to find. The codification will be under the direction of city attorney J. Glenn Donaldson.

Admitted to a Higher Court

JOHN T. SHUMATE, Glenwood Springs, died at the age of 94, on June 10th. He was admitted to the Colorado bar in 1878 and served as county attorney for Garfield county and city attorney for Glenwood Springs. He also served in the Colorado House of Representatives and as district attorney for the Ninth Judicial District. He has not been in active practice in recent years.

RALPH L. NEARY, Pueblo, died of injuries received in an automobile accident, north of Pueblo. From 1936 to 1944 he was district attorney for the Tenth Judicial District. He served in the judge advocate general's office of the army during the war and upon his return from the war engaged in private practice.

CLARENCE R. ANDERSON, Denver, died June 7, after an illness of several months. He had recently resigned as a member of the Denver election commission, to which office he was elected in 1943. He was born in Philadelphia, June 22, 1886. He came to Denver in 1902. He attended the Chicago Law School and was admitted to the Colorado bar in 1906. He was for a time associated with the law firm of Patterson, Richardson and Hawkins, but at the time of his death was practicing alone.

Addresses

Supreme Court Judge GEORGE A. LUXFORD, *The Practice of Law*, at Westminster Law School commencement, Denver, June 8th.

WILLIAM H. SCOFIELD, *Who is a Taxpayer*, at Denver Taxpayer's Protective Association, June 13th.

Juvenile Judge PHILIP B. GILLIAM, *Keeping Children Out of Court*, at the National Conference of Juvenile Judges, Chicago, June 25th to 27th.

Supreme Court Judge BENJAMIN C. HILLIARD, *Justice for Safety*, at Western Safety Conference, Denver, June 12th.

STANLEY H. JOHNSON, *Why the Present Interest in Courts*, at special luncheon of the Junior Bar Section honoring the judges and guests attending the Tenth Judicial Circuit Conference, Denver, June 16.

Personals

FRED J. MACK, Pueblo, is retiring as clerk of the United States district court in Pueblo, as that office is being closed. Mr. Mack is re-entering private practice.

MRS. FRANCES HICKEY SCHALOW is the new law librarian and an instructor of law in the University of Denver School of Law, and is retiring from her position as law clerk to senior circuit judge ORIE L. PHILLIPS. She was an instructor in the school of law and served as executive secretary from 1943 to 1946.

RICHARD M. DAVIS, Denver, has been elected to the board of directors of The Denver National Bank and to the board of directors of American Crystal Sugar Company. Mr. Davis is a trustee of the Colorado Museum of Natural History; a director of the Denver Chamber of Commerce; a member of the executive committee of the Colorado Public Expenditure Council; a member of the board of public welfare; and president of the Mile High Club. He is associated with QUIGG NEWTON and S. ARTHUR HENRY in Denver.

ROBERT J. KIRSCHWING, Denver, has resigned as manager of safety and excise, and has re-entered private law practice in the Equitable Building. Mr. Kirschwing was appointed manager of safety and excise in December, 1942.

THOMAS C. GIBSON has resigned as assistant city attorney to re-enter private practice. Mr. Gibson was assistant city attorney from 1916 to 1927, and from 1935 until his resignation. He was city attorney from 1927 to 1931.

JOE D. NEFF has resigned as municipal judge of Denver and will devote his entire time to private practice. Mr. Neff has offices at 701 Symes Building, Denver.

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